

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

ERIC G. SMITH,	§	
	§	
Appellant,	§	Civil Action No. C-07-123
	§	(Lead Case)
v.	§	
	§	
AET INC., LIMITED,	§	
	§	
Appellee.	§	

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ERIC G. SMITH, et al.,	§	
	§	
Appellants,	§	
	§	
v.	§	
	§	Civil Action No. C-07-124
PADRE ISLES PROPERTY OWNERS	§	(Member Case)
ASSOCIATION, INC., et al.,	§	
	§	
Appellees.	§	

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ERIC G. SMITH, et al.,	§	
	§	
Appellants,	§	
	§	
v.	§	Civil Action No. C-07-126
	§	(Member Case)
	§	
MICHAEL B. SCHMIDT, TRUSTEE,	§	
	§	
Appellee.	§	

**ORDER CONSOLIDATING ACTIONS**

Appellants Eric G. Smith and Janet D. Smith filed two separate appeals of orders entered by the Honorable Richard Schmidt of the United States Bankruptcy Court for the Southern District of Texas (Case Nos. 07-124 and 07-126). Appellant Eric G. Smith filed a third appeal of another order filed by Judge Schmidt (Case No. 07-

123).

In Case No. 07-123, Appellant Eric G. Smith appealed Bankruptcy Court Order No. 169 in Adversary Proceeding No. 06-02059, American Eagle Tankers Inc. v. Eric Gene Smith. Bankruptcy Court Order No. 169 denied the debtors' motion to waive discharge and motion to dismiss claim # 8 and the entire adversary proceeding.

In Case No. 07-124, Appellants Eric G. Smith and Janet D. Smith appealed Bankruptcy Court Order No. 400 in Case No. 05-21079-C-7, In re Eric G. and Janet D. Smith. Bankruptcy Court Order No. 400 denied Debtors Eric G. and Janet D. Smith's second motion to dismiss the above-referenced Chapter 7 case.

In Case No. 07-126, Appellants Eric G. Smith and Janet D. Smith appealed Bankruptcy Court Order No. 390 in Case No. 05-21079-C-7, In re Eric G. and Janet D. Smith. Bankruptcy Court Order No. 390 granted the Trustee's motion for turnover of certain property.

Because these three appeals involve common questions of law and fact, consolidation of the three appeals is proper pursuant to Federal Rule of Civil Procedure 42(a) ("when actions involving a common question of law or fact are pending before the court ... it may order all the actions consolidated"); see also Miller v. United States Postal Serv., 729 F.2d 1022, 1036 (5th Cir. 1984).<sup>1</sup>

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<sup>1</sup>"A motion to consolidate is not required, the court may invoke Rule 42(a) sua sponte." Miller, 729 F.2d at 1036.

Therefore, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the Court hereby CONSOLIDATES the bankruptcy appeals pending in Case Nos. 07-123, 07-124 and 07-126. Case No. 07-123 is hereby designated as the lead case, and Case Nos. 124 and 126 are hereby designated as member cases. All future pleadings shall be filed in Case No. 07-123. The caption of the consolidated action will be re-aligned to conform to the above-styled caption.

SIGNED and ENTERED this 20th day of April, 2007.

A handwritten signature in black ink, reading "Janis Graham Jack", is written over a horizontal line.

Janis Graham Jack  
United States District Judge